

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

FRANCO ALFREDO GALLI,

Defendant.

Case No. 2:09-CR-00402-KJD-LRL

ORDER

Presently before the Court is the Government's Motion for Forfeiture of Property and Amendment to the Judgment in a Criminal Case (#63). The Court has considered the parties' oral arguments in addition to Defendant's Memorandum in Opposition to Collection of Restitution and Forfeiture (#53). The Government filed a response (#57/58).

Franco Alfredo Galli ("Galli") pled guilty and agreed in the plea agreement (#38, ¶ 16, p. 4) to a criminal forfeiture money judgment. The United States of America ("United States" or "the Government") requested, Galli did not object, and according to the plea agreement, this Court entered an Order of Forfeiture at the change of plea (#40). At sentencing, Galli objected to the Order of Forfeiture in spite of the plea agreement, arguing the United States would receive a double recovery. The Court ordered (#49) counsel for both parties to brief the entry of both restitution and

1 forfeiture. The Court entered the Judgment (#52), ordering the restitution of \$125,285.80 and
2 reserving the decision of whether to enter an Order of Forfeiture after briefing.

3 Having considered the arguments of the parties, both written and oral, the Court finds that the
4 Ninth Circuit Court of Appeals has clearly established that a court may order both restitution and
5 criminal forfeiture in the same or similar amounts. See U.S. v. Newman, 659 F.3d 1235, 1241-42
6 (9th Cir. 2011)(quoting U.S. v. McGinty, 610 F.3d 1242, 1247-48 (10th Cir. 2010)). Further, the
7 Ninth Circuit made clear that since forfeiture and restitution are separate remedies serving separate
8 purposes, the result is not an “impermissible ‘double recovery’”. Id. Had Newman been decided
9 before Defendant’s sentencing his argument would have been a violation of his plea agreement in
10 which he agreed to criminal forfeiture.

11 Accordingly, IT IS HEREBY ORDERED, that the Government’s Motion for Forfeiture of
12 Property and Amendment to the Judgment in a Criminal Case (#63) is **GRANTED**.

13 DATED this 11th day of October 2013.

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17 Kent J. Dawson
18 United States District Judge
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